HOUSE OF THE PEOPLE

THE FOOD ADULTERATION BILL, 1952

(Report of the Select Committee)

PARLIAMENT SECRETARIAT
NEW DELHI
February, 1953.

Reports of Select Committees Presented to Parliament in - 1953.

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S. No.	Name of Bill	Date of Presentation	Date of Publication in the Gazette.
.	The Tea Bill.	14th-2-53	19.2.53
.	The Food Adulteration Bill	16-2-53	19-2-53
.	The Estate Duty Bill	31-3-53	10-4-53
.	The Industries (Development and Regulation) Amendment Bill.	29-4-53	29-4-53
.	The A ir Corporations Bill	30.4.53	30.4.53
.	The Representation of the People (Amendment) Bill, 1955	-	-

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THE FOOD ADULTERATION BILL, 1952

MEMBERS OF THE SELECT COMMITTEE

Rajkumari Amrit Kaur.—*Chairman.*
Shri Santosh Kumar Dutta.
Shri Lokenath Mishra.
Dr. Ram Subhag Singh.
Shri Kailash Pati Sinha.
Shri Hira Singh Chinaria.
Shri Amarnath Vidyalankar.
Shri Bheekha Bhai.
Sardar Raj Bhanu Singh Tewari.
Shri K. G. Deshmukh.
Shri Vaijanath Mahodaya.
Shri T. Madiah Gowda.
Shri Halaharvi Sitarama Reddy.
Shri K. Periaswami Gounder.
Shri Maneklal Maganlal Gandhi.
Shri Rajaram Giridharlal Dubey.
Shri Hoti Lal Agarwal.
Shri Biswa Nath Roy.
Shrimati Uma Nehru.
Shri Narayan Sadoba Kajrolkar.
Shri C. R. Narasimhan.
Shri R. V. Dhulekar.
Dr. Indubhai B. Amin.
Sardar Lal Singh.
Shri K. Kelappan.
Dr. Ch. V. Rama Rao.
Shri Tridib Kumar Chaudhari.
Shrimati Sucheta Kripalani.
Shrimati Indira A. Maydeo.
Shri Hirendranath Mukerjee.
Shri Shankar Shantaram More.
Dr. P. S. Deshmukh.
Shrimati M. Chandrasekhar.

REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill to make provision for the prevention of adulteration of food was referred, have considered the Bill and I now submit this their Report, with the Bill as amended by the Select Committee annexed hereto.

2. Upon the changes proposed in the Bill which are not formal or consequential, the Select Committee note as follows:—

Clause 1.—The amendment of the short title is to bring out the object of the Act more clearly.

A commencement clause has now been inserted in order to enable the State Governments in particular, to bring section 7 of the Act into force in their States or parts thereof on suitable dates.

Clause 2.—Apart from clarificatory amendments in clauses (i)(a) and (b), in sub-clause (f), certain redundant words have been omitted and the words "or is insect-infested" added to cover all the articles of food like *atta* and flour which are often found to be weevil-infested;

In sub-clause (g), the words "or from an animal fed upon unwholesome food" have been omitted as it is often difficult to detect whether an animal was fed upon unwholesome food and also because the retention of these words would include fowls and pigs within its ambit.

Clause 3.—The Select Committee have reduced the number of experts in item (c) of sub-clause (2) and have at the same time widened the choice for selection. The Select Committee also feel that representatives of industry, commerce and the medical profession should also be on the Committee and the clause has been amended accordingly.

Clauses 5 and 7.—As a commencement provision has now been inserted in clause 1, the words omitted are no longer necessary. Incidentally, in clause 7, the Select Committee have inserted the word "store" in conformity with the language of clause 16(1).

Clause 10.—The Select Committee have amended this clause in order to provide—

(a) that in suitable cases, for example, where the articles are bulky in nature, they will be left in the custody of the vendor after seizure;

(b) that the power to break open the door of any premises is exercised reasonably;

(c) that food inspectors are also empowered to seize any material which may be used as an adulterant;

(d) that food inspectors have the powers of a Police Officer under section 57 of the Code of Criminal Procedure for the purposes of ascertaining the name and address of offenders and that food inspectors do not exercise their powers vexatiously.

Clause 11.—The Select Committee feel that in some cases, as for example in the case of integral packages, it may not always be possible to separate the sample of food into three parts. Hence the words "except in special cases provided by rules under this Act" have been inserted at the beginning of item (b) of sub-clause (1). The Select Committee have omitted sub-clause (4) as unnecessary.

In order to provide against any undue delay caused by any food inspector in the production of any seized article of food specially of a perishable nature, before the magistrate, the Select Committee feel that the owner of the article should also have the power to apply to the magistrate for production of the article of food. The Select Committee have accordingly added a second proviso to sub-clause (5).

The Select Committee have added a new sub-clause (6) providing for cases where an article of food is found by the magistrate to be not adulterated.

Clause 12.—The Select Committee feel that sub-clause (2) is quite unnecessary but at the same time the Select Committee are of the view that the purchaser should inform the vendor at the time of purchase and not afterwards, of his intention to have an article of food purchased by him analysed. The Select Committee have, therefore, recast this whole clause.

Clause 13.—Sub-clause (2) has been recast from a drafting point of view. The proviso to sub-clause (5) has been revised because in the opinion of the Select Committee only the Director of the Central Food Laboratory should have the privilege of exemption from appearing in courts in connection with any certificates issued under this Act.

Clause 16.—In order to make the Act effective, the Select Committee are of the opinion that the penalty should be made more deterrent and provision should also be made for the publication of names of contumacious offenders. They also feel that—

(a) manufacturers of articles of food who have in their possession adulterants; or

(b) persons who tamper with any seized article; or

(c) persons who use reports or certificates of analysis for the purpose of advertisement; and

(d) persons who give false warranties to purchasers of articles of food;

should also be punished. The clause has, therefore, been recast accordingly.

Clause 19.—Sub-clause (4) has been omitted because it may offer a loophole to an employer who is the real offender, to escape.

Clause 20.—In view of the enhanced penalties now leviable, jurisdiction to try offences in the first instance should be given to presidency magistrates and magistrates of the 1st class.

Clause 21.—This is new and authorises a presidency magistrate or a magistrate of the 1st class to award any punishment in excess of his powers.

Clause 23 (old clause 22).—The Select Committee feel that the Central Government should have power to make rules for imposing rigorous control over the production and distribution or sale not only of milk, milk products, vanaspati and edible oils but also of any article of food which the Central Government may specify in this behalf. The Select Committee have, therefore, combined items (c) and (d) into one single item and have omitted specific references to milk, milk products, vanaspati and edible oils.

The rule-making power has been expanded.

Clause 24 (old clause 23).—Apart from minor amendments, the Select Committee have included local authorities in sub-clause 2(e) to which powers could be delegated.

Clause 25 (*old clause 24*).—The amendment to the proviso to sub-clause (1) is consequential upon the amendment to clause 1. Sub-clause (2) has been inserted in order to provide for the continued operation of existing rules, regulations and bye-laws until new rules, regulations or bye-laws are framed.

8. The Bill was published in Part II, Section 2 of the *Gazette of India*, dated the 15th November, 1952.

AMRIT KAUR,
Chairman of the Select Committee.

NEW DELHI;
The 14*th February*, 1953.

MINUTE OF DISSENT

We feel it necessary to record our dissent from the provision, recommended by the majority in the Select Committee, of minimum punishment by the Courts in cases of conviction for food adulteration. We agree, of course, that food adulteration is a serious offence and every effort is justified if it proves a real deterrent. But we fear that in the present position of affairs in the country, there are likely to be more prosecutions against the smaller fry (who are often pawns in the game of cleverer and more resourceful people) than against big men behind transactions that are primarily responsible for the adulteration of our people's food. We are of opinion that the judiciary may well be left its discretion regarding minimum punishment. Otherwise we are afraid, there might be cases of acquittal where, on account of a rigid insistence on minimum punishment, the trying magistrates would feel that such punishment might not be warranted by the circumstances though a lesser punishment might well prove helpful in the campaign against food adulteration.

2. Therefore we suggest that the provisos under sub-clauses (b) and (c) in clause 16 be omitted.

3. Secondly, under clause 12, it is mandatory for the purchaser to inform the vendor of his intention to have the article analysed.

4. We feel it should be optional for the purchaser to inform the vendor though it may lessen the chances of direct prosecution. Therefore we suggest that "may" be substituted for "shall' in the proviso under clause 12.

HIRENDRA NATH MUKERJEE,
CH. V. RAMA RAO.

NEW DELHI;
The 14th February, 1958.

THE FOOD ADULTERATION BILL, 1952

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

BILL

to make provision for the prevention of adulteration of food.

BE it enacted by Parliament as follows :—

PRELIMINARY

1. Short title, * extent and commencement.—(*1*) This Act may be called the Prevention of Food Adulteration Act, 1953.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; but section 7 shall take effect in any State only from such date as the State Government may, by like notification, appoint and different dates may be appointed by the State Government for different areas of the State.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*i*) "adulterated"—an article of food shall be deemed to be adulterated—

(*a*) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be;

(*b*) if the article contains any other substance which affects, or if the article is so processed as to affect, injuriously the nature, substance or quality thereof;

(*c*) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof:

(*d*) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof ;

(*e*) if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health ;

(*f*) if the article, * * * consists wholly or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;

(*g*) if the article is obtained from a diseased animal;

* * *

(*h*) if * * * the article contains any poisonous or other ingredient which renders it injurious to health ;

(*i*) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its contents injurious to health ;

(*j*) if any colouring matter other than that prescribed in respect thereof and in amounts not within the prescribed limits of variability is present in the article ;

(*k*) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;

(*l*) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability;

(*ii*) "Central Food Laboratory" means any laboratory or institute established or specified under section 4 ;

(*iii*) "Committee" means the Central Committee for Food Standards constituted under section 8 ;

(*iv*) "Director of the Central Food Laboratory" means the person appointed by the Central Government by notification in the Official Gazette as the Director of the Central Food Laboratory and includes any person appointed by the Central Government in like manner to perform all or any of the functions of the Director under this Act;

(*v*) "food" means any article used as food or drink by man, other than drugs and water and includes—

(*a*) any article which ordinarily enters into, or is used in the composition or preparation of human food, and

(*b*) any flavouring matter or condiments ;

(*vi*) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State by whatever name he is called ;

(*vii*) "local area" means any area, whether urban or rural, declared by the State Government, by notification in the Official Gazette, to be a local area for the purposes of this Act;

(*viii*) "local authority" means in the case of—

(*1*) a local area which is—

(*a*) a municipality, the municipal board or municipal corporation;

(*b*) a cantonment, the cantonment authority;

(*c*) a notified area, the notified area committee;

(*2*) any other local area, such authority as may be prescribed by the State Government under this Act;

(*ix*) "misbranded"—an article of food shall be deemed to be misbranded—

(*a*) if it is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character ;

(*b*) if it is falsely stated to be the product of any place or country ;

(*c*) if it is sold by a name which belongs to another article of food ;

(*d*) if it is so coloured, flavoured or coated, powdered or polished that the fact that the article is damaged is concealed or if the article is made to appear better or of greater value than it really is;

(*e*) if false claims are made for it upon the label or otherwise ;

(*f*) if, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act ;

(*g*) if the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular ; or if the package is otherwise deceptive with respect to its contents ;

(*h*) if the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article ;

(*i*) if it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses ;

(*j*) if it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder ;

(*k*) if it is not labelled in accordance with the requirements of this Act or rules made thereunder ;

(*x*) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed;

(*xi*) "premises" include any manufacturing shop, stall, or place where any article of food is sold or manufactured or stored for sale ;

(*xii*) "prescribed" means prescribed by rules made under this Act ;

(*xiii*) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article ;

(*xiv*) "sample" means a sample of any article of food taken under the provisions of this Act or of any rules made thereunder ;

(*xv*) the words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health or repugnant to human use.

CENTRAL COMMITTEE FOR FOOD STANDARD AND CENTRAL FOOD LABORATORY

3. The Central Committee for Food Standards.—(*1*) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(*2*) The Committee shall consist of the following members, namely:—

(*a*) the Director-General, Health Services, *ex-officio*, who shall be the Chairman ;

(*b*) the Director of the Central Food Laboratory, *ex-officio*;

(*c*) two experts * * * nominated by the Central Government;

(*d*) one representative each of the Central Ministries of Food and Agriculture, Commerce and Industry, Railways and Defence nominated by the Central Government;

(*e*) one representative each nominated by the Government of each Part A State and Part B State ;

(*f*) two representatives nominated by the Central Government to represent the Part C States;

(*g*) two representatives of industry and commerce nominated by the Central Government;

(*h*) one representative of the medical profession nominated by the Indian Council of Medical Research.

(*3*) The members of the Committee referred to in clauses, (*c*), (*d*), (*e*), (*f*), (*g*) and (*h*) of sub-section (*2*) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for renomination.

(*4*) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(*5*) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(*6*) The Committee may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the transaction of its business.

4. Central Food Laboratory.—(*1*) The Central Government may, by notification in the Official Gazette,—

(*a*) establish a Central Food Laboratory ; or

(*b*) specify any laboratory or institute as a Central Food Laboratory;

to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act.

(*2*) The Central Government may, after consultation with the Committee, make rules prescribing—

(*a*) the functions of the Central Food Laboratory;

(*b*) the procedure for the submission to the said Laboratory of samples of articles of food for analysis or tests, the forms of the Laboratory's reports thereon and the fees payable in respect of such reports;

(*c*) such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

General Provisions as to Food

5. Prohibition of import of certain articles of food.— * * * No person shall import into India—

(*i*) any adulterated food;

(*ii*) any misbranded food;

(*iii*) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and

(*iv*) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

6. Application of law relating to sea customs and powers of Customs Officers.—(*1*) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by section 18 of the Sea

Customs Act, 1878 (VIII of 1878) shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under section 5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(*2*) Without prejudice to the provisions of sub-section (*1*) the Customs Collector, or any officer of the Government authorized by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory.

7. Prohibition of manufacture, sale, etc., of certain articles of food.—

* * * * *

No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute—

(*i*) any adulterated food;

(*ii*) any misbranded food;

(*iii*) any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence;

(*iv*) any article of food the sale of which is for the time being prohibited by the Food (Health) Authority with a view to preventing the outbreak or spread of infectious diseases; or

(*v*) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

ANALYSIS OF FOOD

8. Public Analysts.—The State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed, to be public analysts and define the local areas over which they shall exercise jurisdiction:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed:

Provided further that the State Government may appoint one public analyst for two or more local areas, such local areas being regarded as one unit for the purposes of this Act.

9. Food Inspectors.—(*1*) Subject to the provisions of section 14 the State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit, having the prescribed qualifications to be food inspectors for the purposes of this Act, and they shall exercise their powers within such local areas as that Government may assign to them:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed.

(*2*) Every food inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

10. Powers of food inspectors.—(*1*) A food inspector shall have power—

(*a*) to take samples of any article of food from—

(*i*) any person selling such article:

(*ii*) any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee;

(*iii*) a consignee after delivery of any such article to him; and

(*b*) to send such sample for analysis to the public analyst for the local area within which such sample has been taken;

(*c*) with the previous approval of the health officer having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food with a view to preventing the outbreak or spread of any infectious disease.

(*2*) Any food inspector may enter and inspect any place where any article of food is manufactured, stored or exposed for sale and take samples of such articles of food for analysis.

(*3*) Where any sample is taken under clause (*a*) of sub-section (*1*) or sub-section (*2*), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(*4*) If any article intended for food appears to any food inspector to be adulterated or misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided.

(*5*) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale.

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.

(*6*) Any material found in the possession of a manufacturer of any article of food or in any of the premises occupied by him as such and being apparently of a kind which may be employed for purposes of adulteration and for the possession of which he is unable to account to the satisfaction of the food inspector, may be seized by the food inspector and if necessary a sample of such material submitted for analysis to a public analyst.

(*7*) Any food inspector may exercise the powers of a police officer under section 57 of the Code of Criminal Procedure, 1898 (Act V of 1898) for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an article of food is seized.

(*8*) Any food inspector exercising powers under this Act or under the rules made thereunder who—

(*a*) vexatiously and without any reasonable grounds of suspicion seizes any article of food; or

(*b*) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty shall be guilty of an offence under this Act and shall be punishable for such offence with fine which may extend to five hundred rupees.

11. Procedure to be followed by food inspectors.—(*1*) When a food inspector takes a sample of food for analysis, he shall—

(*a*) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample;

(*b*) except in special cases provided by rules under this Act separate the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits; and

(*c*) (*i*) deliver one of the parts to the person from whom the sample has been taken;

(*ii*) send another part for analysis to the public analyst; and

(*iii*) retain the third part for production in case any legal proceedings are taken or for analysis by the Director of the Central Food Laboratory under sub-section (*2*) of section 13, as the case may be.

(*2*) If the person from whom the sample has been taken declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the food inspector who shall retain it for production in case legal proceedings are taken.

(*3*) When a sample of any article of food is taken under sub-section (*1*) or sub-section (*2*) of section 10, the food inspector shall send a sample of it in accordance with the rules prescribed for sampling to the public analyst for the local area concerned.

* * * *

(*4*) An article of food seized under sub-section (*4*) of section 10, shall be produced before a magistrate as soon as possible:

Provided that in the case of any article of which samples have been sent to the public analyst for analysis it may be produced on or after the receipt of the report of the public analyst:

Provided further that if an application is made to the magistrate in this behalf by the person from whom any article of food has been seized, the magistrate shall by order in writing direct the food inspector to produce such article before him within such time as may be specified in the order.

(*5*) If it appears to the magistrate on taking such evidence as he may deem necessary that the article of food produced before him under sub-section (*5*) is adulterated, he may order it—

(*a*) to be forfeited to the local authority, or

(*b*) to be destroyed at the cost of the owner of or the person from whom it was seized so as to prevent its being used as human food,

(*c*) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name, or

(*d*) to be returned back to the owner for being sold under its appropriate name, after taking adequate guarantee from the owner.

(*6*) If it appears to the magistrate that any such article of food is not adulterated the person from whose possession the article was taken shall be entitled to have it restored to him and it shall be in the discretion of the magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the magistrate may think proper.

12. Purchaser may have food analysed.—Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a food inspector from having such article analysed by the public analyst on payment of such fees as may be prescribed and from receiving from the public analyst a report of his analysis:

Provided that such purchaser shall inform the vendor at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the public analyst shows that the article of food is adulterated, the purchaser shall be entitled to get refund of the fees paid by him under this section.

13. Report of public analyst.—(*1*) The public analyst shall deliver, in such form as may be prescribed, a report to the food inspector of the result of the analysis of any article of food submitted to him for analysis.

(*2*) After the institution of a prosecution under this Act the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending the part of the sample mentioned in sub-clause (*i*) or sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 11 to the Director of the Central Food Laboratory for a certificate; and on receipt of the application the court shall first ascertain that the mark and seal or fastening as provided in clause (*b*) of sub-section (*1*) of section 11 are in tact and may then despatch the part of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of his analysis.

(*3*) The certificate issued by the Director of the Central Food Laboratory under sub-section (*2*) shall supersede the report given by the public analyst under sub-section (*1*).

(*4*) Where a certificate obtained from the Director of the Central Food Laboratory under sub-section (*2*) is produced in any proceeding under this Act, or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860), it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(*5*) Any document purporting to be a report signed by a public analyst unless it has been superseded under sub-section (*3*), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any

proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860):

Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory shall be final and conclusive evidence of the facts stated therein.

MISCELLANEOUS

14. Import of food and sale of food in railway and other premises.—(*1*) The Central Government may, by notification in the Official Gazette, appoint any person to exercise the powers of a food inspector under sections 10 and 11,—

(*a*) at any major port, air port or land customs station in respect of any article of food which is being imported through such port or station;

(*b*) in respect of any railway station or group of railway stations where food is being sold :

Provided that the Central Government may, instead of making any appointment under this section, authorise any food inspector in any State in which the major port, air port or land customs station or railway station is situate to exercise such powers.

(*2*) Every person appointed or authorised under sub-section (*1*) shall be deemed to be a food inspector for the purposes of this Act.

15. Notification of food poisoning.—The State Government may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

16. Penalties.—(*1*) If any person—

(*a*) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes, any article of food in contravention of any of the provisions of this Act or of any rule made thereunder, or

(*b*) prevents a food inspector from taking a sample as authorised by this Act, or

(*c*) prevents a food inspector from exercising any other power conferred on him by or under this Act, or

(*d*) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any material which may be employed for the purpose of adulteration, or

(*e*) being a person in whose safe custody any article of food has been kept under sub-section (*4*) of section 10, tampers or in any other manner interferes with such article, or

(*f*) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory, or by a public analyst or any extract thereof for the purpose of advertising any article of food, or

(*g*) whether by himself or by any person on his behalf gives to the purchaser a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable—

(*a*) for the first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees;

(*b*) for a second offence with imprisonment for a term which may extend to two years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees;

(*c*) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.

(*2*) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

17. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm means a partner in the firm.

18. Forfeiture of property.—Where any person has been convicted under this Act for the contravention of any of the provisions of this Act or of any rule thereunder, the article of food in respect of which the contravention has been committed may be forfeited to the Government.

19. Defences which may or may not be allowed in prosecutions under this Act.—(*1*) It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

(*2*) A vendor shall not be deemed to have committed an offence if he proves—

(*i*) that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any, to the effect that it was of such nature, substance and quality;

(*ii*) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance and quality; and

(*iii*) that he sold it in the same state as he purchased it:

Provided that such a defence shall be open to the vendor only if he has, within seven days of the receipt of a copy of the report of the public analyst, submitted to the food inspector or the local authority a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person:

Provided further that the warranty given by a person resident in any area in which this Act is not in force, shall be a defence to the vendor only if the vendor proves to the satisfaction of the court that he had taken reasonable steps to ascertain and did in fact believe in, the accuracy of the statement contained in the warranty.

(*3*) Any person by whom a warranty as is referred to in sub-section (*2*), is alleged to have been given shall be entitled to appear at the hearing and give evidence.

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20. Cognizance and trial of offences.—(*1*) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority.

(*2*) No court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence under this Act.

21. Magistrate's power to impose enhanced penalties.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Presidency magistrate or any magistrate of the first class to pass any sentence authorised by this Act, in excess of his powers under section 32 of the said Code.

22. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

23. Power of the Central Government to make rules.—The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules—

(*a*) specifying the articles of food or classes of food for the import of which a licence is required and prescribing the form and conditions of such licence, the authority empowered to issue the same and the fees payable therefor;

(*b*) defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food;

* * * * *

(*c*) laying down special provisions for imposing rigorous control over the production, distribution and sale of any article or class of articles of food which the Central Government may, by notification in the official Gazette, specify in this behalf including registration of the premises where they are manufactured, maintenance of the premises in a sanitary condition and maintenance of the healthy state of human beings associated with the production, distribution and sale of such article or class of articles;

(*d*) restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article;

(*e*) defining the qualifications, powers and duties of food inspectors and public analysts;

(*f*) prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture of any article of food or regulating by the issue of licences the manufacture or sale of any article of food;

(*g*) defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health ;

(*h*) specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up;

(*i*) specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables or their products or any other article of food as well as the maximum amounts of each preservative;

(*j*) specifying the colouring matter and the maximum quantities thereof which may be used in any article of food ;

(*k*) providing for the exemption from this Act or of any requirements contained therein and subject to such conditions, if any, as may be specified, of any article or class of articles of food;

(*l*) prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food;

(*m*) prohibiting or regulating—

(*i*) the addition of any water, or other diluent or adulterant to any article of food;

(*ii*) the abstraction of any ingredient from any article of food;

(*iii*) the sale of any article of food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

(*iv*) the mixing of two or more articles of food which are similar in nature or appearance;

(*n*) providing for the destruction of such articles of food as are not in accordance with the provisions of this Act or of the rules made thereunder.

24. Power of the State Government to make rules.—(*1*) The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of section 23.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) define the powers and duties of the Food (Health) Authority and local authority and jurisdiction of food inspectors and public analysts;

(*b*) prescribe the forms of licences for the manufacture for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same and the fees payable therefor;

(*c*) direct a fee to be paid for analysing any article of food or for any matter for which a fee may be prescribed under this Act;

(*d*) direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realisation;

(*e*) provide for the delegation of the powers and functions conferred by this Act on the State Government or the Food (Health) Authority to subordinate authorities or to local authorities.

25. Repeal and saving.—(*1*) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall upon such commencement stand repealed:

Provided that in so far as any such corresponding law makes provision for any of the matters dealt with in section 7 or for the punishment of offences committed in contravention of any such law, the repeal shall take effect in a particular State or in any particular area thereof only on the date appointed by the State Government in respect of such State or such area thereof in exercise of the powers conferred upon it by sub-section (*3*) of section 1.

(2) Notwithstanding the repeal by this Act of any corresponding law, all rules, regulations and bye-laws relating to the prevention of adulteration of food, made under such corresponding law and in force immediately before the commencement of this Act shall, except where and so far as they are inconsistent with or repugnant to the provisions of this Act, continue in force until altered, amended or repealed by rules made under this Act.

HOUSE OF THE PEOPLE

Report of the Select Committee on the Bill to make provisions for the prevention of adulteration of food.

(As amended by the Select Committee)

GIPD—LAD—1121 PS—17-2-53—1750